

---

# Appeal Decision

Site visit made on 8 September 2014

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1<sup>st</sup> October 2014**

---

**Appeal Ref: APP/D2320/A/14/2222239**

**Kendal House (Plot 3), Bolton Road, Anderton, Chorley BL6 7RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Anil Pitalia (Spamedica) against the decision of Chorley Borough Council.
  - The application Ref 14/00364/FUL, received by the Council on 31 March 2014, was refused by notice dated 6 June 2014.
  - The development proposed is proposed amended house type to Plot 3 of previously approved plans.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The description of development on the original application form states that the development is "Based on approval ref 13/00624/FUL Level 6 dwelling, Plot 3, Bolton Road, Anderton, Chorley BL6 7RW. Proposed first floor rear extension over sun lounger". However, the Council contested the accuracy of this and suggested that it should be changed to the description used in the heading above. This change was not disputed by the appellant and the appeal form acknowledges that the description has been altered. Therefore I have determined the appeal on the basis of this revised description.

## Background

3. The appeal property forms one of four detached dwellings that have, or are in the process of being built, on the site of the former Squirrel Public House. It has been stated that the original application<sup>1</sup> for the construction of these dwellings, which was granted permission in 2011, was considered to be inappropriate development but that very special circumstances existed to justify the harm to the Green Belt. The house on this plot has been subject to three further permissions<sup>2</sup> in 2013 and 2014 which amended the approved house type and the location of the garage.

---

<sup>1</sup> Application Reference 11/00131/FUL

<sup>2</sup> Application References 12/01099/FUL, 13/00624/FUL and 13/01155/FUL

## Main Issues

4. The main issues in the appeal are:
- Whether the proposal represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
  - The effect of the proposal on the openness of the Green Belt; and
  - If the proposal is inappropriate development whether the harm to the Green Belt, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development<sup>3</sup>.

## Reasons

### *Whether inappropriate development*

5. Paragraphs 89 and 90 of the National Planning Policy Framework (the Framework) set out the forms of development that are not inappropriate within the Green Belt. The Framework establishes in paragraph 89 that, other than in connection with a small number of exceptions, the construction of new buildings within the Green Belt should be regarded as inappropriate.
6. Policy DC1 of the *Chorley Borough Local Plan Review (adopted August 2003)* (CBLP) sets out the forms of development that are not inappropriate in the Green Belt. This does not fully accord with the Framework, which the Council have acknowledged sets out the current national guidance for Green Belts.
7. It has been suggested that the proposal represents an extension to the dwelling currently being built and that the Framework allows extensions or alterations to buildings provided that they do not result in disproportionate additions over and above the size of the original. Be that as it may, as set out above it was agreed that the proposal before me is not for an extension, but for an amended house type – i.e. a new dwelling.
8. A new dwelling does not fall into any of the types of development listed in either the Framework or Policy DC1. Consequently, the scheme would be inappropriate development, which paragraph 87 of the Framework states, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### *Openness*

9. Openness is an essential characteristic of the Green Belt. It was established at the time of the original application that the size and volume of the four dwellings exceeded the size and volume of the public house that previously occupied the site and so they would have greater impact on openness. The proposed amended house type would increase both the volume and the footprint of the dwelling originally approved on the site and would represent an increase in the volume of that currently being built. As such, the openness of the Green Belt would be further reduced.

---

<sup>3</sup> This decision has taken account of the judgement of Patterson J in *Redhill Aerodrome Ltd v SSCLG, Tandridge District Council, Reigate and Banstead Borough Council* [2014] EWHC 2476 (Admin)

10. The appellant has suggested that as the only difference between this house and the approved house type is an additional first floor element at the rear, this would largely be screened from view and so the proposal would not have any greater impact on openness. However, this does not mean that the proposal would not affect the openness as a lack of visibility does not mean there would not be a loss of openness. Consequently, there would be a degree of harm arising from the loss of openness, in addition to that arising from the inappropriate nature of the development.

#### *Other Considerations*

11. The appellant has put forward a number of other considerations which he considers would justify the proposal. The change of the house type reflects the desire of the appellant to provide a "granny annexe" for his parents within the main part of the house. Although it has been stated that the parents have lived with the family since 1996, I note the various health issues they now have. However, I have not been provided with any substantive evidence to show that the appeal scheme is the only way suitable accommodation can be provided within the existing property. In any event personal circumstances will seldom outweigh more general planning considerations, and it is likely that the dwelling would remain long after the current personal circumstances cease to be material.
12. It has been stated that if the original application for the whole of the site had been judged under the Framework rather than Planning Policy Guidance 2 (which was then current) then it would not have been inappropriate development as the Framework allows for the partial or complete redevelopment of previously developed sites. As such, very special circumstances would not have needed to be demonstrated. However, applications and appeals have to be judged on the development plan and other material considerations that exist at the time and this previous application is not a matter that is before me. As indicated above I conclude that this scheme is inappropriate development in terms of current national policy.
13. I note that previously the Council have accepted that very special circumstances existed which led to the granting of permissions on the site. However, each application and appeal has to be determined on its own merits, and the fact that very special circumstances existed previously does not mean that they necessarily do in every case on the same site.
14. A unilateral undertaking has been submitted by the appellant that would restrict future permitted development alterations and extensions to the property. Whilst this would only control future developments and the impact they would have on the openness of the Green Belt, it, together with the stated support from the owner of the adjacent Plot 2, favour the scheme.

#### **Green Belt Conclusion**

15. The proposal would be inappropriate development in the Green Belt which is harmful by definition. According to the Framework (paragraph 88) substantial weight has to be given to any harm to the Green Belt. In addition, the proposal would result in a reduction in the openness of the Green Belt. I conclude that, taken together, the factors cited in its favour do not outweigh the harm to the Green Belt the scheme would cause. Consequently, very

special circumstances do not exist to outweigh the harm that the proposal would cause to the Green Belt.

**Planning Balance and Conclusion**

16. The Council has indicated that the proposed dwelling would be acceptable in terms of its character and appearance and would have no adverse impact on the living conditions of neighbouring residents. I have no reason to disagree with this assessment. However, these matters are, at best, neutral factors.
17. Having considered all other matters raised, nothing has been found to alter my conclusion that the proposed development would have a harmful effect on the Green Belt which would significantly and demonstrably outweigh the benefits of the proposal. As a result, I consider that the proposal would be contrary to both the Framework and Policy DC1 of the CBLP.
18. For the reasons set out above, I conclude that the appeal should be dismissed.

*Alison Partington*

INSPECTOR